

Message Text

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64

ORIGIN EB-07

INFO OCT-01 EUR-12 ISO-00 L-03 JUSE-00 CIAE-00 COME-00

DODE-00 DOTE-00 FMC-02 INR-07 NSAE-00 CG-00 OFA-01

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DRAFTED BY EB/CSB/BP:TASCHLENKER:VJW

APPROVED BY EB/CSB/BP:HJWINTER

EB/CSB/BP - WBLOCKWOOD

EB/TT/MS - RJOHE

L/EB - TTALLERICO

EUR/CE - RCASAGRANDE

JUSTICE - AAIUVALASIT

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R 072255Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY BONN

USMISSION USBERLIN

INFO AMCONSUL HAMBURG

UNCLAS STATE 003840

E.O. 11652: N/A

TAGS: ETRD, US, GW

SUBJECT: ANTITRUST: FOREIGN OCEAN CARRIERS - HAPAG-LLOYD

REF: STATE 196682

1. FRG REQUESTED IN AIDE-MEMOIRE DATED OCTOBER 23, 1975 THAT DEPT OF JUSTICE PROVIDE MORE INFORMATION ABOUT ITS INVESTIGATION OF THE HAPAG-LLOYD COMPANY WHICH, AMONG OTHER SHIPPING CARRIERS, IS SUSPECTED OF ANTITRUST VIOLATIONS CONCERNING THE IMPORTATION OF ALCOHOLIC BEVERAGES FROM EUROPE TO THE U.S. IN PREPARING ITS REPLY, DEPT OF JUSTICE CONSULTED TWICE WITH GERMAN EMBASSY OFFICIALS IN ORDER TO PROVIDE AS FULL A RESPONSE AS POSSIBLE.

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2. DEPT OF JUSTICE TEXT READS AS FOLLOWS:

-- (A) HAPAG-LLOYD, A.G., AND OTHER OCEAN CARRIERS ARE MEMBERS OF CONFERENCES ENGAGED IN TRADE BETWEEN EUROPE AND THE UNITED STATES. INFORMATION WAS RECEIVED BY THE U.S. DEPARTMENT OF JUSTICE THAT AGREEMENTS BETWEEN OCEAN CONFERENCE CARRIERS (INCLUDING HAPAG-LLOYD, A.G.), AND OTHERS, INCLUDING IMPORTERS, MIGHT EXIST WHICH WOULD BE IN VIOLATION OF THE U.S. ANTITRUST LAWS. THE VIOLATIONS COULD INCLUDE THE FIXING OF RATES, GROUP BOYCOTTS, ALLOCATION OF MARKETS AND MONOPOLIZATION OF THE TRADE. FURTHER, IT WAS UNDERSTOOD THAT THESE AGREEMENTS WERE NOT FILED WITH THE U.S. FEDERAL MARITIME COMMISSION AND, HENCE, HAD NOT RECEIVED THE REQUIRED SCRUTINY AND APPROVAL TO EXEMPT THEM FROM THE U.S. ANTITRUST LAWS.

-- (B) PURSUANT TO THIS INFORMATION, THE U.S. DEPARTMENT OF JUSTICE IS CONDUCTING AN INVESTIGATION WHICH HAS INCLUDED THE ISSUANCE OF CIVIL INVESTIGATIVE DEMANDS TO HAPAG-LLOYD, A.G., OTHER NON-U.S. NATIONAL OCEAN CARRIERS, U.S. NATIONAL OCEAN CARRIERS, AND OTHERS. THE CIVIL INVESTIGATIVE DEMANDS FOCUS ON THE OCEAN TRANSPORTATION OF ALCOHOLIC BEVERAGES, I.E., LIQUOR, WINE, BEER, ETC., FROM EUROPE, INCLUDING THE UNITED KINGDOM AND EIRE, TO UNITED STATES' PORTS. THE NATURE OF THIS PARTICULAR TRADE IS SUCH THAT MOST, IF NOT ALL, OF THE RELEVANT ACTIVITIES UNDER INVESTIGATION OCCURRED WITHIN THE UNITED STATES.

-- (C) THE EMPHASIS OF THE DOCUMENT REQUEST SERVED UPON HAPAG-LLOYD, A.G., CONCERNS AGREEMENTS BETWEEN ASSOCIATIONS OF IMPORTERS AND GROUPS OF OCEAN CARRIERS. ALSO SOUGHT ARE DOCUMENTS WITH RESPECT TO ANY AGREEMENTS AMONG CONFERENCE CARRIERS WITH REGARD TO NON-CONFERENCE CARRIERS AND ANY AGREEMENTS BETWEEN CONFERENCE CARRIERS AND NON-CONFERENCE CARRIERS. ALL DOCUMENTS, OF COURSE, ARE REQUESTED ONLY SO FAR AS THEY RELATE TO AGREEMENTS EFFECTING THE OCEAN TRANSPORTATION OF ALCOHOLIC BEVERAGES FROM EUROPE TO UNITED STATES' PORTS.

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-- (D) IT IS IMPOSSIBLE TO SAY AT THIS TIME WHAT ACTIONS, IF ANY, WILL BE ULTIMATELY TAKEN BY THE U. S. DEPARTMENT OF JUSTICE WITH REGARD TO HAPAG-LLOYD. WE ARE INFORMED BY THE DEPARTMENT OF JUSTICE THAT THIS INQUIRY IS IN ITS EARLY STAGES AND THAT NO DECISION WHATEVER HAS BEEN MADE UP TO THIS POINT TO SEEK PROSECUTION OF HAPAG-LLOYD FOR VIOLATIONS OF THE U.S. ANTI-TRUST LAWS. WHAT IS BEING SOUGHT ARE DOCUMENTS

CONTROLLED BY HAPAG-LLOYD WHICH WILL ENABLE THE DEPARTMENT OF JUSTICE TO MAKE AN INFORMED DECISION. UNQTE

3. ACTION: EMBASSY IS REQUESTED TO TRANSMIT ABOVE REPLY TO FRG AND REPORT ANY REACTION TO DEPARTMENT OF JUSTICE'S REQUEST FOR INFORMATION. KISSINGER

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Margaret P. Grafeld
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